


# Modification of Development Consent

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Clay Preshaw  
**Executive Director**  
Energy, Resources and Industry Assessments

Sydney

21/06/2022

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## SCHEDULE 1

**Development consent:** 07\_0084 granted by the Minister for Planning on 29 April 2008

**For the following:** Staged expansion of the coal combustion product (CCP) management facility in conjunction with changes in the CCP disposal method from lean phase to dense phase. The project also includes the installation of new infrastructure comprising of CCP collection, storage, conditioning and pumping facilities to allow for storage and transportation of CCP from the power station to the CCP management facility.

**Applicant:** Origin Eraring Pty Limited

**Consent Authority:** Minister for Planning

**The Land:** See Appendix 1

**Modification:** Modification 2 Ash Recycling Facilities

## SCHEDULE 2

1. In the list of Definitions, delete the terms “BCD”, “DPIE Water”, “Proponent” and “SA NSW” including their definitions and insert the following in alphabetical order:
 

Applicant	Origin Energy Eraring Pty Ltd, or any person who carries out the project under this approval
BCS	Biodiversity Conservation and Science Directorate within the Department
Department, the	Department of Planning and Environment (DPE)
DPE Water	The Water Group within the Department
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
Heritage NSW - ACH	Heritage NSW – Aboriginal Cultural Heritage
Incident	A set of circumstances that causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits or performance measures/criteria in this approval
Minister, the	Minister for Planning, or delegate
MOD 2	Increase ash recycling activities, including construction and use of new ash storage silos on-site
Non-compliance	An occurrence, set of circumstances or development that is a breach of this approval but is not an incident
Project	The development to which this approval applies
TFNSW	Transport for NSW
2. In the definition of “EA”, after “prepared by AECOM”, insert:
 

“; and  
Modification Report – Ash Recycling Facilities, Eraring Power Station, dated 20 August 2021, prepared by AECOM and Response to Submissions Report – Ash Recycling Facilities, Eraring Power Station, dated 19 November 2021, prepared by AECOM, and additional information provided by the Applicant to support the modification application and included in Appendix A of the Department’s assessment report on Modification 2.”
3. In the definition of “Mitigation”, after “project” insert “, prior to or during those impacts occurring”
4. In the definition of Planning Secretary, after “Secretary”, insert “under the Act, or nominee”
5. In Schedule 2, delete all references to “Proponent” and replace with “Applicant”.
6. In Schedule 2, delete all references to “consent” and replace with “approval”
7. In Schedules 1 to 6, delete all references to “development” and replace with “project”
8. In condition 1.1 of Schedule 2, delete the text after “the project” and replace with: “
  - (a) generally in accordance with the EA;
  - (b) in accordance with the conditions of this approval; and
  - (c) in accordance with any written directions of the Planning Secretary.”
9. Delete condition 1.3 of Schedule 2 and replace with: “
  - 1.3 Consistent with the requirements of this approval, the Planning Secretary may make written directions to the Applicant in relation to:
    - (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this approval, including those that are required to be, and have been, approved by the Planning Secretary; and
    - (b) the implementation of any actions or measures contained in any such document referred to in condition 1.3(a).”
10. After condition 1.5 in Schedule 2, insert:

## **Road Maintenance Contributions**

- 1.6 The Applicant shall pay Council annual contributions for the maintenance of roads along the haulage route in accordance with the terms specified in Appendix B.
11. In condition 2.15 of Schedule 2, delete “the BCD” and replace with “Heritage NSW – ACH”
12. After condition 2.15 of Schedule 2, insert: “

## **Bunded Spillage Areas**

- 2.1 Chemicals and grease stored in bulk form, or work areas where spillages are likely to occur, must be bunded in accordance with:
- (a) the requirements of all relevant Australian Standards; and
  - (b) the EPA's Storing and Handling of Liquids: Environmental Protection – Participants Manual.”
13. In condition 4.2 of Schedule 2, delete “shall address the requirements of Council and the Roads and Traffic Authority and shall include” and replace with “must be prepared in consultation with Council and TfNSW and must include”
14. After condition 4.9 of Schedule 2, insert:

## **Operational Traffic Management Plan**

- 4.10 The Applicant must prepare an Operational Traffic Management Plan to the satisfaction of the Planning Secretary prior to commencing road haulage associated with MOD 2. The Plan must:
- (a) be prepared by suitably qualified and experienced person/s;
  - (b) be prepared in consultation with the TfNSW and Council;
  - (c) include details of traffic routes for heavy vehicles, including any necessary route or timing restriction for heavy or oversized loads associated in particular with bridge upgrades on Wilton Road;
  - (d) include detailed measures to minimise impacts on traffic performance, road safety and noise amenity along the heavy vehicle routes, including specific measures to minimise traffic volumes:
    - (i) through the Morisset town centre (Dora Street) between 4 pm and 6 pm;
    - (ii) during the night time period 10 pm and 7 am;
  - (e) include detailed measures to manage potential cumulative traffic impacts, including other projects undertaken at Eraring Power Station;
  - (f) include processes to demonstrate compliance with statutory requirements for road traffic impacts;
  - (g) include a Driver Code of Conduct including:
    - (i) initiatives for haulage through residential areas and/or school zones;
    - (ii) an induction process for vehicle operators and regular toolbox meetings including education regarding access routes and measures to avoid platooning;
    - (iii) a public complaint management and disciplinary procedure; and
    - (iv) protocols for noise minimisation.

The Applicant must implement the approved Operational Traffic Management Plan.

15. In Schedule 2, delete conditions 5.1, 5.2, 5.3 and 5.4 and replace with: “

## **Incident Notification, Reporting and Response**

- 5.1 The Planning Secretary must be notified in writing via the Major Projects website immediately after the Applicant becomes aware of an incident. The notification must identify the project (including the application number and the name of the project if it has one) and set out the location and nature of

the incident. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in Appendix C.

### **Non-Compliance Notification**

- 5.2 The Planning Secretary must be notified in writing via the Major Projects website within seven days after the Applicant becomes aware of any non-compliance.
- 5.3 A non-compliance notification must identify the project and the application number for it, set out the condition of approval that the project is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- 5.4 A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

### **Compliance Reporting**

- 5.5 Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Requirements outlined in the *Compliance Reporting Post Approval Requirements (2020)* or its latest version.
- 5.6 Compliance Reports must be submitted to the Department in accordance with the timeframes set out in the *Compliance Reporting Post Approval Requirements (2020)* or its latest version, unless otherwise agreed to by the Planning Secretary.
- 5.7 The Applicant must make each Compliance Report publicly available within 60 days of submitting it to the Planning Secretary, unless otherwise agreed by the Planning Secretary.
- 5.8 Notwithstanding the requirements of the *Compliance Reporting Post Approval Requirements (2020)* or its latest version, the Planning Secretary may approve a request for ongoing annual operational compliance reports to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an operational compliance report has demonstrated operational compliance.

### **Notification of Department**

- 5.9 Prior to commencing the construction, operations, upgrading or decommissioning of the project or the cessation of operations, the Applicant must notify the Department via the Major Projects website portal of the date of commencement, or cessation, of the relevant phase.
- 5.10 If any of these phases of the project are to be staged, then the Applicant must notify the Department in writing prior to commencing the relevant stage, and clearly identify the project that would be carried out during the relevant stage.

### **INDEPENDENT ENVIRONMENTAL AUDIT**

- 5.11 Within one year of the date of physical commencement of development under Modification 2, and every three years after, unless the Planning Secretary directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit of the project. The audit must:
  - (a) be prepared in accordance with the *Independent Audit Post Approval Requirements (NSW Government 2020)*; and
  - (b) be submitted, to the satisfaction of the Planning Secretary, within two months of undertaking the independent audit site inspection, unless otherwise agreed by the Planning Secretary.
- 5.12 In accordance with the specific requirements of the Independent Audit Post Approval Requirements (NSW Government 2020), the Applicant must:
  - (a) review and respond to each Independent Audit Report prepared under Condition 7 above;
  - (b) submit a response to the Planning Secretary and any other NSW agency that requests it, together with a timetable for the implementation of the recommendations of the Independent Audit Report;
  - (c) implement the recommendations to the satisfaction of the Planning Secretary; and
  - (d) make each Independent Audit Report and response to it publicly available no later than 60 days after submission to the Planning Secretary.

### **Monitoring and Environmental Audits**

- 5.13 Any condition of this approval that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance report and independent audit.

For the purposes of this condition, as set out in the Act, “monitoring” means monitoring of the project to provide data on compliance with the approval or on the environmental impact of the project, and an “environmental audit” means a periodic or particular documented evaluation of the project to provide information on compliance with the approval or the environmental management or impact of the project.

#### **Revision of Strategies, Plans and Programs**

- 5.14 Within 3 months of:

- (a) the submission of an incident report under condition 5.1 above;
- (b) any modification to the conditions of this approval (unless the conditions require otherwise);
- (c) the submission of an audit report in accordance with condition 5.11 of this approval; or
- (d) a direction of the Secretary under condition 1 of Schedule 2,

the Applicant must review and, if necessary, revise the strategies, plans and programs required under this approval to the satisfaction of the Planning Secretary.

Where this review leads to revisions in any such document, then within 4 weeks of the review the revised document must be submitted to the Planning Secretary for approval.

*Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the project.*

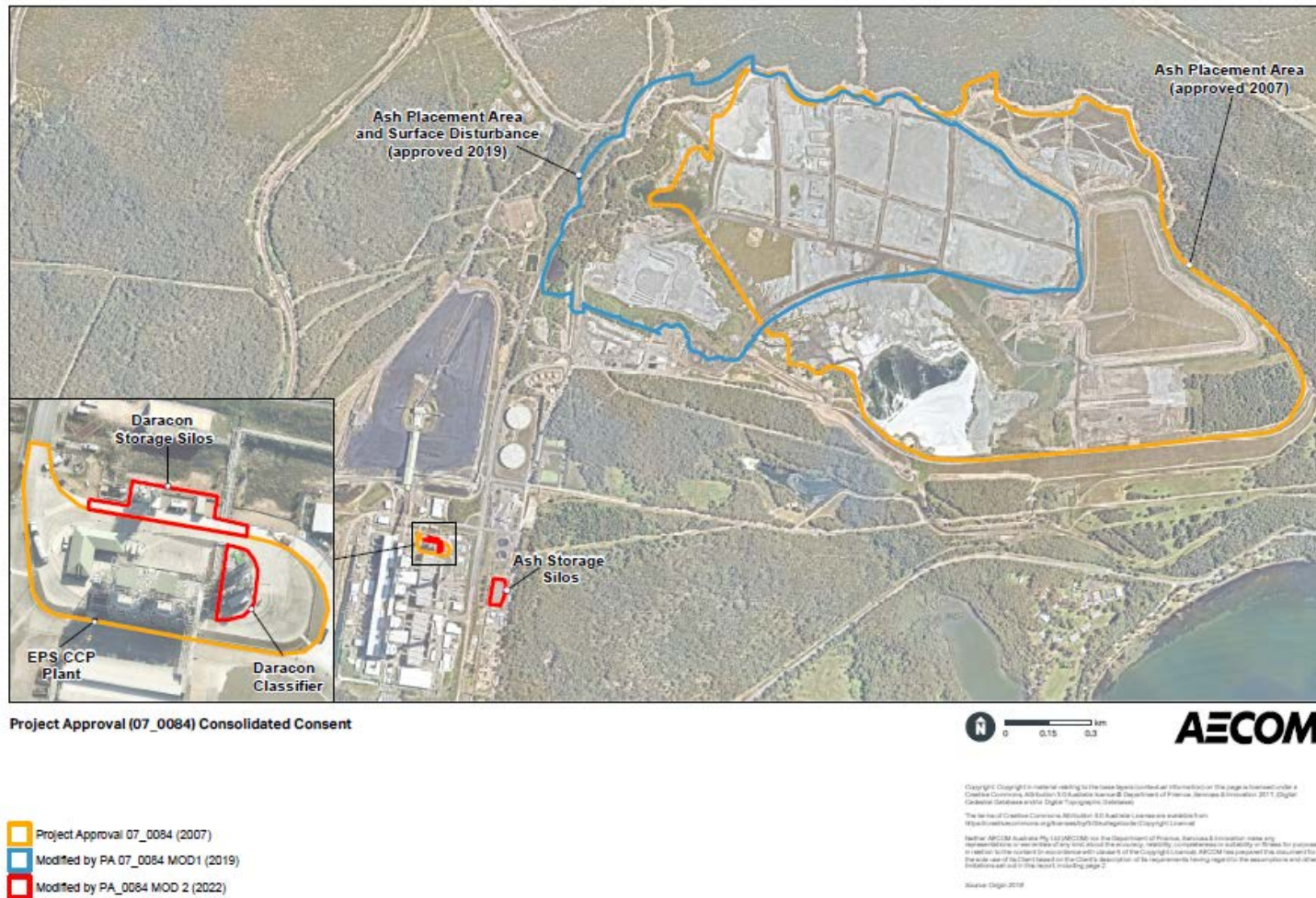
#### **Access to Information**

- 5.15 The Applicant must:

- (a) make the following information publicly available on its website as relevant to the stage of the project:
    - the EAs;
    - current statutory approvals for the project;
    - approved strategies, plans and programs required under the conditions of this approval;
    - a comprehensive summary of the monitoring results of the project, which have been reported in accordance with the various strategies, plans and programs approved under the conditions of this approval;
    - a complaints register, which is to be updated on a monthly basis;
    - any independent environmental audit, and the Applicant’s response to the recommendations in any audit; and
    - any other matter required by the Secretary; and
- keep this information up to date, to the satisfaction of the Planning Secretary.”

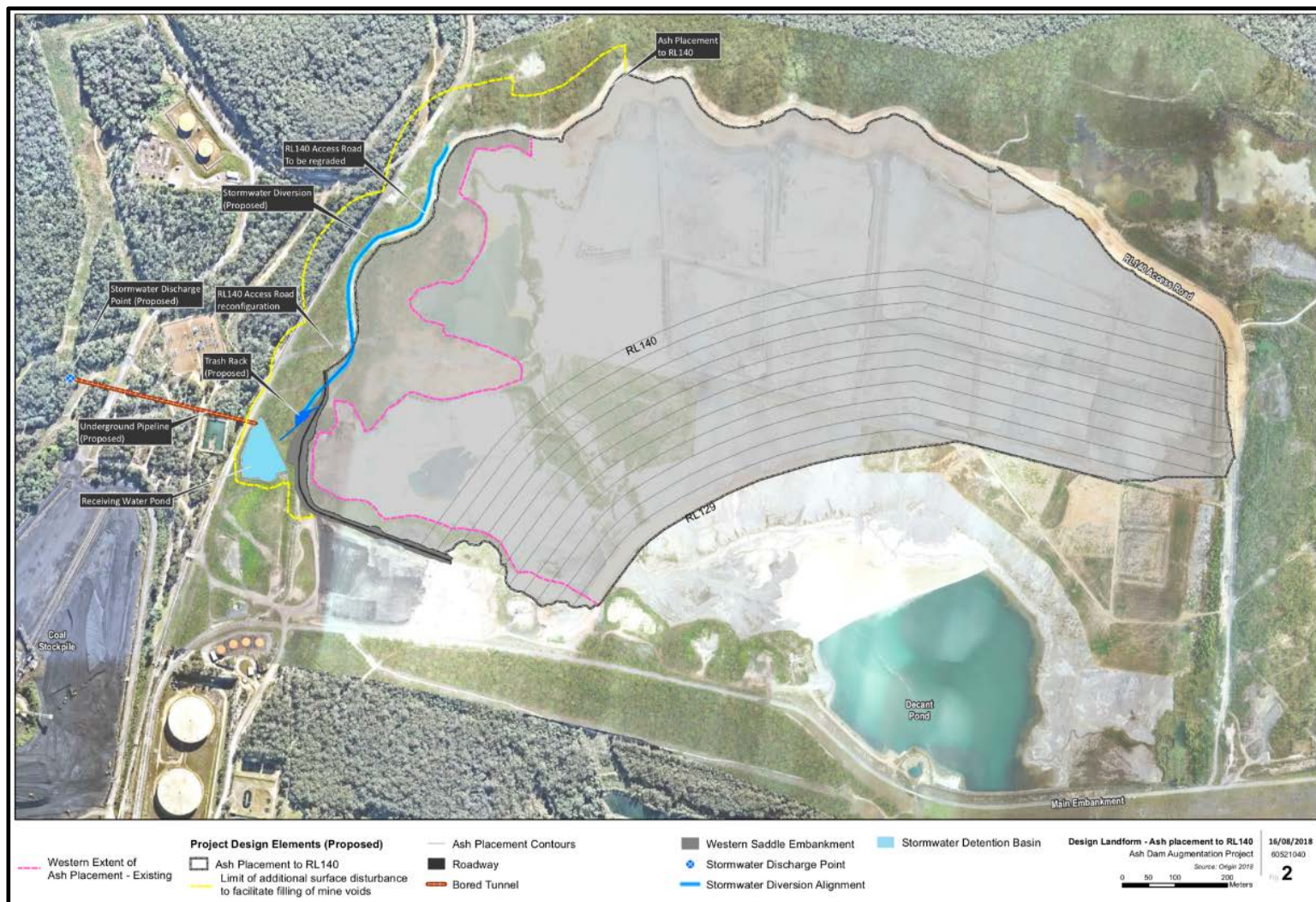
16. After condition 5.15 in Schedule 2, delete “Appendix A: CCP Storage Facility – MOD1 Western Expansion” and the figure and replace with: “

## APPENDIX A – THE SITE



### CCP Storage Facility – MOD1 Western Expansion and MOD 2 CCP Recycling Facilities”





CCP Storage Facility – MOD1 Western Expansion

17. After Appendix A in Schedule 2, insert: “

### **APPENDIX B - ROAD MAINTENANCE CONTRIBUTIONS**

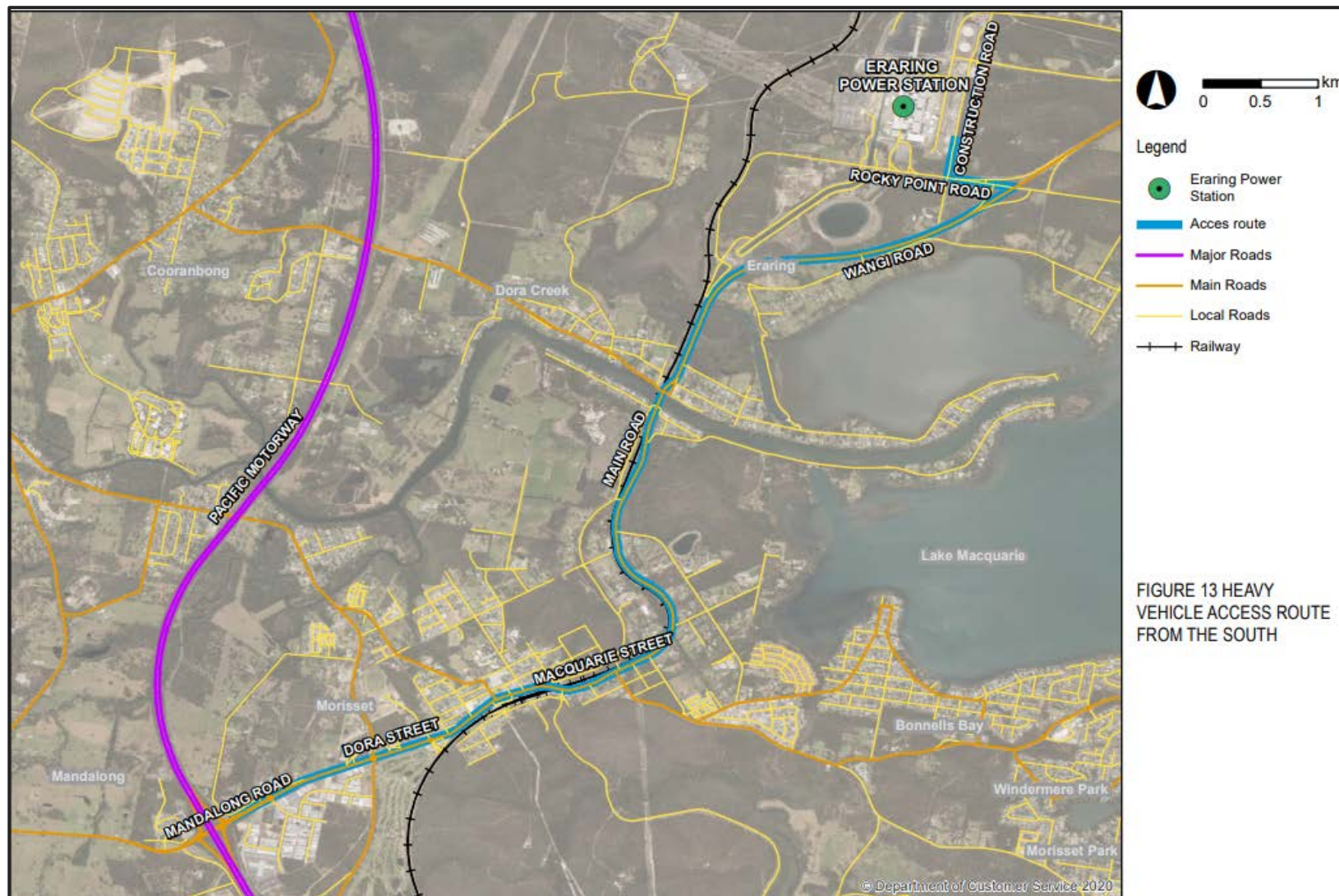
- B1. The Applicant must pay Council haulage contributions for every tonne of CCP transported from the site along the following routes as shown in Appendix B1:
- a. Route 1 at \$0.0234 per tonne of CCP
  - b. Route 2 at \$0.2465 per tonne of CCP
  - c. Route 3 at \$0.0386 per tonne of CCP
- B2. Evidence of the tonnage hauled on each route is required to be submitted to Council by the 31 July each year for the proceeding period of 1 July to 30 June each year.
- B3. From the date of the determination of Modification 2, the amounts of the contributions payable under clause 1 above will be indexed and adjusted at the close of business on 14 May each year in accordance with the Australian Bureau of Statistics Consumer Price Index – Building Construction (NSW).
- B4. The contributions must be paid to Council prior to the 31 August each year for the proceeding financial year from 1 July to 30 June.



## APPENDIX B1 – HAULAGE ROUTES



## ROUTE 1



ROUTE 2

FIGURE 13 HEAVY  
VEHICLE ACCESS ROUTE  
FROM THE SOUTH





**ROUTE 3**

## **APPENDIX C**

### **INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS**

- C1. A written incident notification addressing the requirements set out below must be submitted to the Planning Secretary via the Major Projects website within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition 5.1 or, having given such notification, subsequently forms the view that an incident has not occurred.
- C2. Written notification of an incident must:
- (a) identify the project and application number;
  - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
  - (c) identify how the incident was detected;
  - (d) identify when the Applicant became aware of the incident;
  - (e) identify any actual or potential non-compliance with conditions of approval;
  - (f) describe what immediate steps were taken in relation to the incident;
  - (g) identify further action(s) that will be taken in relation to the incident; and
  - (h) identify a project contact for further communication regarding the incident.
- C3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
- C4. The Incident Report must include:
- (a) a summary of the incident;
  - (b) outcomes of an incident investigation, including identification of the cause of the incident;
  - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
  - (d) details of any communication with other stakeholders regarding the incident."
18. Update the key to conditions to reflect the modification.

**End of modification**  
**(SSD 07\_0084 MOD 2)**